THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.9771 OF 2007

DATED 01.05.2007

BETWEEN

Dalli Chandrasekhar Reddy

… Petitioner

AND

The District Collector, Visakhaptanam, and others.

… Respondents

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.9771 OF 2007

ORDER:

The petitioner is allegedly owner of land admeasuring Acs.3.00 in survey Nos.44/3 and 44/2 situated at Resavanipalem village of

Seetammadhara Mandal, Visakhapatnam District (hereafter called, the subject land). It is allegedly ancestral property. It appears Government of Andhra Pradesh allotted lands adjacent to subject land to Andhra Pradesh Industrial Infrastructure Corporation Limited (APIIC), third respondent herein, for setting up of industries in the locality. Such allotment was made on 24.04.2005. Statedly, APIIC, in turn, allotted subject land in favour of respondents 4 and 5 (cumulatively referred to as Satyam Computers) when they started a compound wall enclosing the land allotted to them. Alleging that respondents 4 and 5 are constructing compound wall in the land belonging to the petitioner, he issued a telegraphic legal notice to first respondent as well as respondents 4 and 5 requesting to remove the compound wall, in vain. Therefore, he filed the writ petition.

Learned counsel for petitioner contends that as per the legal maxims of '*nemo dat quod non habet'* and '*nemo plus juris ad alium transferre potest quam ipse haberet',* when the Government and APIIC had no title in the subject land, they could not have validly passed on such title to Satyam Computers, and therefore, construction of compound wall by Satyam Computers in the petitioner's land is illegal and arbitrary.

After hearing learned counsel for petitioner and learned Assistant Government Pleader for Revenue (General-A), this Court is convinced that the writ petition is filed by making vague allegations in para 3 of the affidavit accompanying the writ petition. Except alleging that Government allotted land to APIIC on 24.04.2005, and APIIC, in turn, allotted land to Satyam Computers, particulars of its allotment are not forthcoming. Though a xerox copy of the telegrahpic communication is annexed to the writ petition, no date whatsoever is found thereon and no receipt of postal authorities is filed. Secondly, it appears the cause of action if any arose long back, but the petitioner filed the writ petition after lapse of much time. Be that as it is, the petitioner seriously disputes the right of respondents 3 to 5 on the subject land. In such a case, the remedy of petitioner is to seek a declaration of title against those people, who are claiming the property to be their own. It is well settled that question of title cannot be decided in a writ petition and proper remedy is to file a suit. (See **Parvatibai Subhanrao Nalawade v Anwarali Hasanali Makani**[1], **State of Rajasthan v Bhawani Singh**[2] and **Mohan Pandey v Usha Rani Rajgaria**[3]). If so advised, the petitioner is at liberty to do so, subject to law of limitation.

The writ petition, subject to above observation, is accordingly dismissed. No costs.

(V.V.S.RAO,J)

01.05.2007.
pln

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[1] (1992) 1 SCC 414

[2] AIR 1992 SC 1018

[3] AIR 1993 SC 1225